

PROPOSED CHANGES TO SECTION V.A. & V.B.

~~Strikethrough~~ indicates language proposed for deletion by Planning Board
Underline indicates language proposed for inclusion by Planning Board
[**Bracket**] indicates Department of Community Development Amendment
Underline indicates proposed new corresponding definition
Green indicates work to be completed

SECTION V NONCONFORMING LOTS, BUILDINGS AND USES

The provisions of this Section are intended to achieve the following objectives in conjunction with proposed changes in nonconforming lots, buildingss and uses:

Grammatical correction.

- To promote or maintain compatibility with neighboring properties and natural resources.
- To avoid the creation of adverse impacts on neighboring properties or on natural resources.
- To reduce or minimize existing adverse impacts on neighboring properties or on natural resources

(ATM 5/16/01)

The lawful use or location of any building, structure or land existing at the time of enactment or subsequent amendment of this Bylaw may be continued, although such building, structure or use does not conform with the provisions of this Bylaw, subject to the following conditions and exceptions:

~~A. Abandonment~~

~~A nonconforming use which has been abandoned or discontinued for a period of two (2) years or more shall not be reestablished and any future use shall conform with the Bylaw.~~

The subject matter of the existing Section A—“Abandonment” will be moved to follow “Other Nonconforming Buildings Section” (to be drafted).

A. Single and Two-Family Residential Buildings

1. As-of-Right Construction

~~B. Enlargement, Extension or Change~~

As provided in MGL Chapter 40A Section 6, ~~a nonconforming single or and two-family dwelling~~ residential buildings and their accessory buildings may be altered ~~or, extended provided that, reconstructed or structurally changed upon the Zoning Enforcement Officer determines that doing so~~ issuance of a building permit if such alteration, extension, reconstruction or structural change does not increase the nonconforming nature of ~~such dwelling. For dwellings with setback~~ said buildings or create new nonconformities, ~~any addition within the required setback area (including an increase in building height) shall be deemed to increase the nonconforming nature of the dwelling. Such alterations, extensions or changes shall require a Special Permit from the Zoning Board of Appeals. The following alterations, extensions, reconstructions or structural changes are deemed not to increase the nonconforming nature of said buildings or create new nonconformities:~~

The approach to revising existing Sections A & B includes division into “Single and Two-Family Residential Buildings” and “Other Nonconforming Buildings” sections for consistency with MGL Ch. 40A Section 6.

Within the “Single and Two-Family Residential Buildings” Section, “As of Right Construction” and “Construction by Special Permit” is specified.

*Proposed Change
from Current
Practice*

a. Alterations, extensions, **reconstructions** or structural changes which conform to all of the provisions of this Bylaw other than those requirements governing lot area, lot shape or lot frontage provided that any increase in **gross floor area** may not result in a total **gross floor area** of all buildings on the lot which exceeds by more than twenty five percent (25%) the average **gross floor area** of the residential building and its accessory buildings on each lot in the surrounding **neighborhood**.

Current Practice

b. Alterations or structural changes occurring entirely within existing single or two-family residential buildings or accessory buildings.

*Proposed Change
from Current
Practice*

c. Relocation or addition of windows, doors, skylights, louvers, or similar openings in the exterior of a structure, provided that the façade of the structure on which those changes occur conforms to the yard requirements of this Bylaw or faces the street.

Current Practice

d. Demolition and **reconstruction** of a single or two-family residential buildings or an accessory building thereto in the same location that the previous building stood.

“a.” Limits projects on lots with area, shape or frontage deficiencies to an increase of not more than 125% of the average Gross Floor Area (GFA) of the neighborhood by right. Offered as an alternative to “a.” presented 8/21/07.

“b.” Clarifies internal alterations are allowed by right.

“c.” Notes changes to openings in the exterior of a structure are allowed by right when conforming or face street..

“d.” Clarifies buildings can be demolished / reconstructed – “same structure, same location”. Offered as an alternative to “h.” presented 8/21/07.

As a result of the hierarchy restructuring noted above, this deleted preamble language will be incorporated into “Other Nonconforming Structures Buildings” (to be drafted).

This new Section specifies when a Special Permit is required for nonconforming Single and Two-Family Residential Buildings

~~Other pre-existing nonconforming structures or uses may be extended, altered, or changed in use by Special Permit, provided that the Zoning Board of Appeals finds that such extension, alteration, or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.~~

2. Construction by Special Permit

As provided in MGL Ch. 40A, Sec. 6, alterations, extensions, **reconstructions**, or structural changes to lawfully nonconforming single and two-family residential buildings, which increase the nonconforming nature of a building, shall not be permitted unless there is a finding by the Zoning Board of Appeals that such alteration, extension, **reconstruction**, or structural change shall not be substantially more detrimental than the existing building to the **neighborhood**. Alterations, extensions, **reconstructions**, and structural changes that do not conform to one or more of the types described above under Section V.A.1. “As-of-Right Construction” are deemed to increase the nonconforming nature of a structure.

a. Special Permit Criteria

In making its decision, the Zoning Board of Appeals shall make written findings addressing, at a minimum, each of the following considerations, if applicable:

1. Adequacy of the size of the ~~site lot including but not limited~~ with respect to; ~~maximum lot or~~ building coverage and setbacks of buildings within the **neighborhood**.
2. Compatibility of the size of the proposed ~~structure building~~ with ~~neighboring properties;~~ buildings within the **neighborhood**.

Considerations 1 through 6 have been revised to emphasize the relationship with the neighborhood.

3. Extent of proposed increase in nonconforming nature of the ~~structure building~~ or use; with respect to nonconformities within the neighborhood.
4. Suitability of the ~~site-lot~~, including but not limited to, impact on ~~neighboring~~ properties within the neighborhood or on the natural environment of the neighborhood, including slopes, vegetation, wetlands, groundwater, water bodies and storm water runoff;.
5. Impact of scale, siting and mass on ~~neighborhood-the~~ visual character; ~~including of properties within the neighborhood~~, including public and private views, vistas and streetscapes; that may be reasonably preserved.
6. ~~Compatibility of the proposed use with neighboring uses;~~Reasonable preservation of the privacy of direct abutters, with respect to extensions, enlargements, or relocation of yard encroachments or the creation of new yard encroachments.
- ~~7. Adequacy of method of sewage disposal, source of water and drainage;~~
- ~~8. Impact on traffic flow and safety;~~
- ~~9. Noise and litter; and~~
- ~~10. Adequacy of utilities and other public services.~~

Proposed New
Criteria

Deleted considerations from the existing bylaw (6-10) will be moved to Special Permit Criteria for "Other Nonconforming Buildings" for consistency with MGL Ch. 40A Section 9 (to be drafted).

B. Other Nonconforming Buildings (to be drafted)

Proposal for this Section needs to be drafted

Proposed Corresponding New Definitions

Gross Floor Area - The floor area of all levels within the perimeter of the outside walls of the building(s) under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features. If any room in a building has a sloping ceiling, any portion of the room measuring less than five (5) feet from the floor to the ceiling plane above shall not be included in any computation of gross floor area. Gross Floor Area computations shall include **basements** but not **cellars**.

Neighborhood - All single and two-family residential buildings and their accessory buildings within five hundred (500) feet of the front or side abutter's lot lines of the subject residential or accessory building as measured on the same side and the opposite side of the street or right of way on which the subject residential building or accessory building is located.

Reconstruction - The act or process of reproducing by new construction the form and detail of a destroyed or demolished building, structure, or a part thereof as it appeared prior to its destruction or demolition, while allowing changes in size, bulk or height mandated by minimum adherence to prevailing building codes.